Supreme Court, U.S.
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No. 93-1148
No. 93-1149

IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

ALEXANDER LOCE,

Petitioner,

- against -

THE STATE OF NEW JERSEY,

Respondent.

TINA KRAIL, ET ALS.,

Petitioners,

- against -

THE STATE OF NEW JERSEY,

Respondent.

BRIEF AMICUS CURIAE OF MOTHER TERESA OF CALCUTTA, IN SUPPORT OF PETITIONERS' PETITIONS FOR A WRIT OF CERTIORARI

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INTEREST OF AMICUS CURIAE

Mother Teresa resides at 541A Ach. Jagdish, Ch. Bose Rd., Calcutta, India 700 016. She is the founder and Mother Superior of the Order of the Missionaries of Charity. The Order maintains its headquarters in Calcutta, India. The Missionaries of Charity have provided services to the needy in many parts of the world, including the United States of America, where the Order's main office is located at 335 East 145th Street in the Bronx, New York. Much of the work of the Missionaries of Charity involves providing charitable services to children and to poor families. Through this work Mother Teresa and the Missionaries of Charity have a special interest in the welfare of all children, born and unborn, and the familial relationship between children and their mothers and fathers.

SUMMARY OF ARGUMENT

The unborn child possesses an inalienable right to life which must be recognized and safeguarded by any just society.

ARGUMENT

I. THE QUESTION WHETHER UNBORN HUMAN BEINGS POSSESS THE INALIENABLE RIGHT TO LIFE IS OF THE GREATEST IMPORTANCE AND MUST NOT BE AVOIDED BY THIS COURT.

I hope you will count it no presumption that I seek your leave to address you on behalf of the unborn child. Like that child I can be called an outsider. I am not an American citizen. My parents were Albanian. I was born before the First World War in a part of what was not yet, and is no longer, Yugoslavia. In many senses I know what it is like to be without a country. I also know what it is like to feel as an adopted citizen of other lands. When I was still a young girl I travelled to India. I found my work among the poor and the sick of that nation, and I have lived there ever since.

Since 1950 I have worked with my many sisters from around the world as one of the Missionaries of Charity. Our congregation now has some over 400 foundations in more than 100 different countries, including the United States of America. We have almost 5,000 sisters. We care for those who are often treated as outsiders in their own communities by their own neighbors -- the starving, the crippled, the impoverished, and the diseased, from the old woman with a brain tumor in Calcutta to the young man with AIDS in New York City. A special focus of our care are mothers and their children. This includes mothers who feel pressured to sacrifice their unborn children by want, neglect, despair, and philosophies and governmental policies which promote the dehumanization of inconvenient human life. And it includes the children themselves, innocent and utterly defenseless, who are at the mercy of those who would deny their humanity. So, in a sense, my sisters and those we serve are all

outsiders together. At the same time, we are supremely conscious of the common bonds of humanity that unite us and transcend national boundaries.

In another sense no one in the world who prizes liberty and human rights can feel anything but a strong kinship with America. Yours is the one great nation in all of history which was founded on the precept of equal rights and respect for all humankind, for the poorest and weakest of us as well as the richest and strongest. As your Declaration of Independence put it in words which have never lost their power to stir the heart:

> We hold these truths to be self-evident: that all men are created equal; that they are endowed by their creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. . . .

A nation founded on these principles holds a sacred trust: to stand as an example to the rest of the world, to climb ever higher in its practical realization of the ideals of human

dignity, brotherhood, and mutual respect. It has been your constant efforts in fulfillment of that mission, far more than your size or your wealth or your military might, that have made America an inspiration to all mankind.

It must be recognized that your model was never one of realized perfection, but of ceaseless aspiration. From the outset, for example, America denied the African slave his freedom and human dignity. But in time you righted that wrong, albeit at an incalculable cost in human suffering and loss of life. Your impetus has almost always been toward a fuller, more all-embracing conception and assurance of the rights which your founding fathers recognized as inherent and God-given. Yours has ever been an inclusive, not an exclusive society. And your steps, though they may have paused or faltered now and then, have been pointed in the right direction and have trod the right path. The task has not always been an easy one, and each new generation has faced its

own challenges and temptations. But, in a uniquely courageous and inspiring way, America has kept faith.

Yet there has been one infinitely tragic and destructive departure from those American ideals in recent memory. It was this Court's own decision in 1973 to exclude the unborn child from the human family. Roe v. Wade, 410 U.S. 113 (1973). You ruled that a mother, in consultation with her doctor, has broad discretion, guaranteed against infringement by the United States Constitution, to choose to destroy her unborn child. Your opinion stated that you did not need to "resolve the difficult question of when life begins." 410 U.S. at 159. That question is inescapable. If the right to life is an inherent and inalienable right, it must surely obtain wherever human life exists. No one can deny that the unborn child is a distinct being, that it is human, and that it is alive. It is unjust, therefore, to deprive the unborn child

of its fundamental right to life on the basis of its age, size, or condition of dependency. It was a sad infidelity to America's highest ideals when this Court said that it did not matter, or could not be determined, when the inalienable right to life began for a child in its mother's womb.

America needs no words from me to see how your decision in Roe v. Wade has deformed a great nation. The so-called right to abortion has pitted mothers against their children and women against men. It has sown violence and discord at the heart of the most intimate human relationships. It has aggravated the derogation of the father's role in an increasingly fatherless society. It has portrayed the greatest of gifts -- a child -- as a competitor, an intrusion, and an inconvenience. It has nominally accorded mothers unfettered dominion over the independent lives of their physically dependent sons and daughters. And, in granting this unconscionable power, it has exposed many

women to unjust and selfish demands from their husbands or other sexual partners.

Human rights are not a privilege conferred by government. They are every human being's entitlement by virtue of his humanity. The right to life does not depend, and must not be declared to be contingent, on the pleasure of anyone else, not even a parent or a sovereign. The Constitutional Court of the Federal Republic of Germany recently ruled:

> The unborn child is entitled to its right to life independently of acceptance by its mother; this is an elementary and inalienable right which emanates from the dignity of the human being.

Judgment of May 28, 1993, The Constitutional Court of the Federal Republic of Germany, Judgment of the Second Senate, 20 EuGRZ 229-275 (consolidated case nos. 2 BzF2/90, 2 BzF 4/92, 2 BzF 5/92). Americans may feel justly proud that Germany in 1993 was able to recognize the sanctity of human life. You must weep that your own government, at present, seems blind to this truth.

I have no new teaching for America. I seek only to recall you to faithfulness to what you once taught the world. Your nation was founded on the proposition -- very old as a moral precept, but startling and innovative as a political insight -- that human life is a gift of immeasurable worth, and that it deserves, always and everywhere, to be treated with the utmost dignity and respect.

CONCLUSION

I urge the Court to take the opportunity presented by the petitions in these cases to consider the fundamental question of when human life begins and to declare without equivocation the inalienable rights which it possesses.

Respectfully submitted,

MOTHER TERESA OF CALCUTTA

Robert P. George

ROBERT P. GEORGE, ESQ.